

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 24, 1999

DIVISION ONE

Court convened at 9:00 A.M.

Present: Ortega, Acting P.J., Vogel (Miriam A.), J., Masterson, J., and S. Beaux, Deputy Clerk.

Each of the following:

B118900 People v. Tran et al.
B120636 People v. Carrillo
B121933 People v. May
B122088 People v. Pechichjian
B124864 People v. Washington
B130543 In re Washington on Habeas Corpus
B125174 People v. Childress
B125730 People v. Keesling
B126345 People v. Gamble
B126618 People v. Cortez
B126870 People v. Davila
B127191 People v. Parish
B127224 People v. Raul S.
B127245 People v. Ragland
B127718 People v. Enriquez
B128327 People v. Proctor
B128822 People v. Murphy
B129392 People v. Williamson
B129592 People v. Tran, Phuong
B132930 Sheila v. SCLA (DCFS)

Argument waived, cause submitted.

DIVISION ONE (Continued)

B126193 Clarity Telcom Inc., etc.
 v.
 Harco, Inc.

Cause called:
Jeffrey A. Rich appeared for appellant and no appearance for respondent.
Argument waived and cause submitted.

B119663 The People
 v.
 Ward

Merits:
Argued by Fay Arfa for appellant and by Alene M. Games, deputy attorney
general, for respondent. Counsel waives the presence of Spencer, P.J.
Cause submitted.

B124220 The People
 v.
 Camacho

Merits:
Argued by Manuel H. Miller for appellant and by Russell A. Lehman,
deputy attorney general, for respondent. Cause submitted.

B122308 The People
 v.
 Delgado

Merits:
Argued by Robert F. Howell for appellant and by William T. Harter, deputy
attorney general. for respondent. Cause submitted.

DIVISION ONE (Continued)

B121754 Redding Medical Center
 v.
 Bonta

Merits:

Argued by Patric Hooper for appellant and by Carol W. Schultz, deputy attorney general, for respondent. Counsel waives presence of Spencer, P.J. Cause submitted.

B130243 Apartment Association of LA
 v.
 City of Los Angeles

Merits:

Argued by Craig Mordoh for appellants and by Miguel A. Dager, deputy city attorney, for respondent. Cause submitted.

B121915 Willick
 v.
 City of Los Angeles et al.

Merits:

Argued by Daniel H. Willick for appellant and by Katherine J. Hamilton, deputy city attorney, for respondent City of LA and by Clinton T. McCool for respondent Wynn. Counsel waives presence of Spencer, P.J. Cause submitted.

B118100 Fragale et al.
 v.
 City of El Segundo

Merits:

Argued by Robert L. Bastain, Jr. for appellants and by Eliabeth R. Feffer for respondent. Counsel waives presence of Spencer, P.J. Cause submitted.

August 24, 1999-Continued

DIVISION ONE (Continued)

B122893 Montrose Chemical Corp.
B122750 v.
American Motorists Ins.

Merits:

Argued by John Chesney for respondent and by Kristine L. Wilkes for appellant. Cause submitted.

Ortega, J. leaves the bench.

B122601 Keil
B125705 v.
Loyola Marymount University et al.

Merits:

Argued by Richard L. Knickerbocker for appellant and by Bethany A. Cook for respondent Loyola Marymount and by Genie Harrison for respondent Anderson. Counsel waives presence of Spencer, P.J. Cause submitted.

Court adjourned.

B118900 People (Not for Publication)
v.
Dung T. Tran et al.

The judgments are affirmed and the cause is remanded to the trial court with directions to issue corrected abstracts of judgment reflecting the \$1,000 restitution fines that each defendant was ordered to pay.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

August 24, 1999-Continued

DIVISION ONE (Continued)

B128822 People (Not for Publication)
v.
Ronald Murphy

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

B129552 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Valerie F.

We therefore reverse the order of February 16, 1999, and remand the cause to the dependency court with directions to conduct an adequate hearing to determine whether Valerie's parental rights should be terminated. This decision is final forthwith.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

DIVISION TWO

B124936 People (Not for Publication)
v.
Arce et al.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Zebrowski, J.

DIVISION THREE

[illegible]

The finding the conviction in case number A322247 is a serious felony within the meaning of Penal Code sections 667, subdivisions (b) to (i) and 1170.12, subdivisions (a) to (d) is reversed. The sentence of 25 years to life in prison is vacated and the matter is remanded to the trial court for resentencing in accordance with this opinion. The clerk of the superior court is ordered to prepare a corrected abstract of judgment in accordance with this opinion. In all other respects, the judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B122060 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Christine W.

The order denying a section 388 hearing is reversed and the cause remanded for a section 388 hearing.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B127536 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Erika S.

The order for sibling visitation is reversed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B124318 People (Certified for Publication)
v.
Sainz

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION FOUR

B122814 People (Not for Publication)
v.
DeLaTorre

The judgment is modified to reflect a \$1,200 parole revocation fine pursuant to section 1202.45, the latter fine to be suspended unless appellant's parole is revoked. The matter is remanded for the abstract of judgment to be amended to reflect both fines, and for the court clerk, pursuant to Vehicle Code section 1803, subdivision (a), to send the DMV a certified abstract of appellant's conviction on count 2. As modified, the judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Kuhl, J. (Assigned)

DIVISION FOUR (Continued)

B126958 People (Not for Publication)
v.
Marquez

The judgment is modified to impose a \$200 restitution fine under section 1202.45 and to impose and suspend a \$200 parole revocation fine under section 1202.45. In all other respects, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment that accurately reflects the judgment as announced.

Epstein, Acting P.J.

We concur: Hastings, J.
Kuhl, J. (Assigned)

DIVISION FIVE

B120022 Judith S. Fogel (Not for Publication)
v.
National Life Insurance Company of Vermont et al.

For the reasons set forth above, the order denying appellants' JNOV motion is reversed to the extent the judgment awarded Fogel \$226,000 in damages for breach of her business expense policy. The clerk of the Superior Court is directed to enter a new and different judgment which omits the award of \$226,000 for breach of the business expense policy. In all other respects, the judgment is affirmed. Respondent Fogel to recover her costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B128499 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Paris J.
 In re Nicholas K.

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

B125576 People (Not for Publication)
 v.
 Lester Jones

The clerk of the superior court is directed to amend the abstract of judgment to reflect a \$50 state penalty assessment fine under Penal Code section 1464, subdivision (a) and a \$35 county penalty assessment fine under Government Code section 76000. As amended, the judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B126199 Hermin Domingo (Certified for Publication)
 v.
 Los Angeles County Metropolitan Transportation Authority

The order denying the request of appellant Los Angeles County Metropolitan Transportation Authority for trial de novo is reversed and the trial court is directed to enter a new and different order granting the request. The matter is remanded for further proceedings. Each side to bear its own costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B117061 Joseph A. Saunders, P.C., et al.
 v.
 Weissburg & Aronson et al.

Filed order modifying opinion. (No change in the judgment)

B119136 Robert Soliz (Certified for Partial Publication)
 v.
 Alexander H. Williams III

The judgment of dismissal is affirmed as to the first, second, and third causes of action for monetary damages. The order sustaining to demurrer as to the fourth and fifth causes of action for defamation and a violation of civil rights including those under 42 United States Code section 1983 are reversed. Each side is to bear their own costs on appeal.

Turner, P.J.

We concur: Weisman, J. (Assigned)
 Johnson, J.

DIVISION SIX

B123492 Fickel (Not for Publication)
 v.
 Schwarzbein

The judgment is affirmed. Costs are awarded to respondent.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Matz, J. (Assigned)

DIVISION SIX (Continued)

B110131 Anaerobic Energy Company, Inc. (Not for Publication)
 v.
 Simi Valley County Sanitation District et al.

The judgment is affirmed and costs are awarded to respondents.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B128875 Fregoso (Not for Publication)
 v.
 J.F. Shea Homes et al.

The judgment (order granting summary judgment) is affirmed.
Respondents are awarded costs on appeal.

Yegan, Acting P.J.

We concur: Coffee, J.
 Matz, J. (Assigned)

B126764 People (Not for Publication)
 v.
 Bent

The judgment is modified to include a parole revocation fine of \$10,000 pursuant to section 1202.45, to remain suspended unless appellant's parole is revoked. The clerk of the superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting a parole revocation fine of \$10,000 under section 1202.45. As modified, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

August 24, 1999-Continued

DIVISION SIX (Continued)

B126847 People (Certified for Publication)
v.
Butler

The judgment (order of commitment) is affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B128606 People (Not for Publication)
v.
Sanchez

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

DIVISION SIX (Continued)

B128897 People (Not for Publication)
v.
Brown

The judgment is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

B122133 Hoversten (Certified for Publication)
v.
Superior Court, S.L.O. County
(Hoversten, r.p.i.)

Let a writ of mandate issue commanding respondent court to set aside its order of November 18, 1994, and all orders after that date regarding the issue of legal custody and visitation of the minor children. Respondent court is further commanded to conduct further proceedings in light of the views expressed in this opinion. We vacate the order to show cause.

Gilbert, Acting P.J.

We concur: Yegan, J.
Matz, J. (Assigned)

B126908 Kopitske (Certified for Publication)
v.
Workers Compensation Appeals Board
Safeco Insurance Co., Respondent

The decision of the WCAB to deny reconsideration is annulled. We direct the WCAB to set aside and vacate its ruling and to order the 10 percent penalty payments to be assessed against PD in accord with this opinion. The parties are to bear their own costs.

Gilbert, Acting P.J.

I concur: Coffee, J.
I dissent: Yegan, J.(Opinion)

DIVISION SIX (Continued)

B124959 In re Locks on Habeas Corpus

Filed order granting petition for rehearing.

DIVISION SEVEN

B118832 Hernandez (Not for Publication)
v.
J&M Properties

The order denying respondents' motion for judgment notwithstanding the verdict is reversed, and the superior court is directed to enter judgment in favor of respondents. Accordingly, the appeal of Hernandez is dismissed as moot. Respondents to recover their costs on appeal.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.